

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

VICTOR CAIN,)
)
Petitioner,)
)
v.) Nos.: 2:17-CV-49; 2:09-CR-31(23)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

ORDER

Federal inmate Victor Cain (“Petitioner”) brings this motion to vacate, set aside, or correct a sentence under 28 U.S.C. § 2255, claiming that the enhancement to his sentence, based on his career criminal designation, must be set aside under the holding in *Mathis v. United States*, 136 S. Ct. 2243 (2016) [Doc. 1394].¹ Petitioner filed a previous § 2255 motion in this Court, attacking the same conviction; his motion was granted; and he was resentenced to 180 months’ imprisonment—60 months below the 240-month prison term originally imposed [Docs. 1137, 1312, and 1332].

Under the “Antiterrorism and Effective Death Penalty Act of 1996,” Petitioner cannot file a second or successive § 2255 petition in this Court until he has moved in the Sixth Circuit for an order authorizing the Court to consider the motion. 28 U.S.C. §§ 2244(b)(3) and 2255(h). The Court has received no such order.

¹ Citations to the docket in this Order refer to the document numbers in Petitioner’s underlying criminal case, No. 2:09-CR-31.

Accordingly, the Clerk is **DIRECTED** to **TRANSFER** the instant motion to vacate [Doc. 1394] to the Sixth Circuit pursuant to 28 U.S.C. § 1631. *See In re Sims*, 111 F.3d 45 (6th Cir. 1997).

IT IS SO ORDERED.

ENTER:

s/ Leon Jordan

United States District Judge